



THE CITY OF NEW YORK
LAW DEPARTMENT

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December 21, 2012

BY FAX

Honorable Robert W. Sweet
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

USDC SDNY
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Re: Schoolcraft v. The City of New York, et al.
10-CV-6005 (RWS)

Your Honor:

I am the Assistant Corporation Counsel in the office of Michael A. Cardozo, Corporation Counsel of the City of New York, assigned to represent the City of New York, the New York City Police Department ("NYPD"), and individual defendants Deputy Chief Michael Marino, Assistant Chief Patrol Borough Brooklyn North Gerald Nelson, Captain Theodore Lauterborn, Sergeant Frederick Sawyer, Sergeant Kurt Duncan, Lieutenant Christopher Broschart, Sergeant Shantel James, and Lt. Elise Hanlon (collectively "City Defendants") in the above-referenced matter. The undersigned has recently been made aware that newly named defendant Sergeant Richard Wall was served with process in this action on or about December 10, 2012, and accordingly, his response to the Second Amended Complaint is due on or about December 31, 2012.¹ Without appearing on his behalf or making any representations with respect to service, this office respectfully requests that the Court *sua sponte* grant this defendant a 30-day enlargement of the time until January 30, 2013, to answer or otherwise respond to the complaint. Plaintiff's counsel, Richard Gilbert, Esq., consents to this request.

A decision concerning this office's representation of defendant Wall has not yet been made, however, given the time involved in determining the representation of a police officer, and in the interest of judicial economy, we request that the court, *sua sponte*, extend the time for him to answer so that his defenses are not jeopardized while representational issues are being resolved. The undersigned submits that the requested enlargement should allow sufficient time for this office to determine, pursuant to Section 50-k of the New York General Municipal

¹ According to a review of the Civil Docket Sheet, Lieutenant William Gough, Sergeant Robert W. O'Hare, Sergeant Sondra Wilson, Lieutenant Thomas Hanley, and Captain Timothy Trainor have not yet been served with process, and are therefore not parties to this action.

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Law, and based on a review of the facts of the case, whether we may represent Sergeant Wall. See Mercurio v. The City of New York, et al., 758 F.2d 862, 864-65 (2d Cir. 1985) (quoting Williams v. City of New York, et al., 64 N.Y.2d 800, 486 N.Y.S.2d 918 (1985) (decision whether to represent individual defendants is made by the Corporation Counsel as set forth in state law)).

Accordingly, this office respectfully requests that Your Honor *sua sponte* grant defendant Wall an enlargement of time until January 30, 2013, to answer or otherwise respond to the Second Amended Complaint.

I thank the Court for its consideration of this request.

Respectfully submitted,



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